Positive Political Theory of Law
Political Science 104L
CSB 002

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Winter 2012
Social Science Building 367

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Class Meets: Wednesday, 5-8 p.m.
Office Hours: Wednesday, 3:00 – 4:00 p.m.

My Mission as a Teacher:
“To enable my students to learn joyfully, think clearly, read carefully, and write well.”

Abstract
While we begin with ancient conceptions about the fundamental nature of law, we will end by looking at the most recent thinking as influenced by new work in neuroscience. We still wrestle with questions of justice and responsibility that Moses, Hammurabi, and Lao Tzu faced as we move into an age of brain imaging and genome mapping.

Books
H.L.A Hart The Concept of Law second edition (1997)($38.00)

Topics and Readings
Meeting 1.0 (Wednesday, January 11th) – Introduction
Lon Fuller's “The Case of the Speluncean Explorers” (27 pages)
Martin Luther King, Jr., “Letter from a Birmingham Jail.” (12 pages)

Meeting 1.5 (Wednesday, January 11th) – Divine and Natural Law
Moses, Exodus 19-24 (8 pages)
L.W. King “Code of Hammurabi” (10 pages)
Wing-Tsit Chan “The Natural Way of Lao Tzu” (15 pages)
Benjamin Hoff “The Tao of Pooh” (24 pages)

Meeting 2.0 (Wednesday, January 18th) – Legal Formalism
Ernest Weinrib (1988) “Legal Formalism: On the Immanent Rationality of Law” (49 pages)

Meeting 2.5 (Wednesday, January 18th) – Legal Realism
Karl Llewellyn “A Realistic Jurisprudence – The Next Step” (24 pages)

Meeting 3.0 (Wednesday, January 25th) –
H.L.A. Hart The Concept of Law Preface, Chapter 1 (15 pages)

Meeting 3.5 (Wednesday, January 25th) –
H.L.A. Hart The Concept of Law, Chapter V (12 pages)
Meeting 4.0 (Wednesday, February 1st) –
**First Paper Due (5 pages)**
H.L.A. Hart *The Concept of Law*, Chapter VI (17 pages)

Meeting 4.5 (Wednesday, February 1st) –
H.L.A. Hart *The Concept of Law*, Chapter VII (23 pages)

Meeting 5.0 (Wednesday, February 8th) –
Ronald Dworkin *Law’s Empire*, Chapter 1 (44 pages)

Meeting 5.5 (Wednesday, February 8th) –
Ronald Dworkin *Law’s Empire*, Chapter 2 (42 pages)

Meeting 6.0 (Wednesday, February 15th) –
Ronald Dworkin *Law’s Empire*, Chapter 3 (27 pages)

Meeting 6.5 (Wednesday, February 15th) –
Ronald Dworkin *Law’s Empire*, Chapter 4 (37 pages)

Meeting 7.0 (Wednesday, February 22nd) –
H.L.A. Hart *The Concept of Law*, Postscript (34 pages)

Meeting 7.5 (Wednesday, February 22nd) – Discussion and Midterm review

Meeting 8.0 (Wednesday, February 29th) – **Midterm**

**Jurisprudence and the Brain**

Meeting 8.5 (Wednesday, February 29th) –
Daniel Dennett *Freedom Evolves*, Chapters 1 & 2 (62 pages)
Jeffery Rosen, “The Brain on the Stand” *NY Times* (14 pages)

Meeting 9.0 (Wednesday, March 7th) –
Micheal Gazzaniga and Megan Steven, “Free Will in the 21st Century” (19 pages)
Jonathan Fugelsang and Keven Dunbar “A cognitive neuroscience framework for the understanding of causal reasoning and the law” (6 pages)

Meeting 9.5 (Wednesday, March 7th) –
Morris Hoffman “The neuroeconomic path of the law” (10 pages)
Joshua Greene and Jonathan Cohen “For the law, neuroscience changes nothing and everything” (11 pages)
Stephen Morse, “New Neuroscience, Old Problems” (41 pages)

Meeting 10.0 (Wednesday, March 14th) –
Patricia Smith Churchland “A review of *The Ethical Brain* by Michael Gazzaniga” (7 pages)
Patricia Smith Churchland “Moral Decision-Making and the Brain” (27 pages)

Meeting 10.5 (Wednesday, March 14th) –
Second Paper Due (10 pages)
Oliver Goodenough and Kristin Prehn “A neuroscientific approach to normative judgment in law and justice” (18 pages)
Oliver Goodenough “Responsibility and punishment: whose mind? A response” (5 pages)

Final Exam (Monday, March 19th) – 7:00 p.m. – 9:50 p.m.

Assignments & Grading

40% -- Two Papers (5 pages (13%) and 10 pages (27%))
25% -- Midterm Exam
25% -- Final Exam
10% -- Five Quizzes (you can drop one)

D  Regurgitation – Like an infant, you are good at spitting it back out.
C  Basic – Applying the facts and skills "as is."
B  Intermediate – Applying the facts and skills to new problems or situations.
A  Advanced – Asking counter-factual questions, modifying or changing operative principles to illustrate command of the core-principles in challenging contexts.

Grade Changes and Extensions
All requests for grade changes must be made formally to your teaching assistant. Requests must be typed, double spaced, and include precise textual citations that support your contention. A review of any grade may result in either a higher or a lower grade. Extensions on assignments and make-up exams will only be granted in cases of documented illness or family medical emergencies. Please contact your teaching assistant as soon as possible if you need to request one.

Late Policy
Papers are due at the beginning of class. 2% bonus if an assignment is turned in more than 25 hours early. A 5% penalty applies for any papers turned in after the beginning of class, with a 5% additional penalty for each day an assignment is turned in late. No papers will be accepted electronically. A paper is not submitted until I have a physical copy of it.

Plagiarism
Fidelity to ones’ own ideas and the ideas of others dictates that proper citation be made for any work or idea of another. If I believe that you have violated this principle, I will change from being your advocate to being your prosecutor and I will seek the strongest penalty consistent with university policy.